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November 14, 2019

VIA ELECTRONIC FILING

Chairman Comer H. "Randy" Randall
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, etc. - Dockets No. 2019-185-E and 2019-186-E

Dear Chairman Randall:

On November 12, 2019, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (together, "Duke") filed a Response and Continuing Objection to JDA/SCSBA's Proposals Requesting Commission Approval of Longer-Term Purchased Power Agreements Under S.C. Code Ann. § 58-41-20(F)(1) ("Response"). On November 13, JDA/SCSBA objected to Duke's ability to respond. For the reasons stated in its previous filings in these proceedings, Duke submits that its November 12, 2019 Response to JDA and SCSBA's proposal is lawful and consistent with due process. Indeed, in Mr. Goldin's October 23, 2019 email to the Hearing Officer and parties, a copy of which is enclosed for reference, JDA and SCSBA actually proposed a procedural schedule for submitting longer-term purchased power agreements wherein JDA and SCSBA opined that Duke should be allowed to respond to those proposals. Counsel for JDA and SCSBA also recognized that Duke should be permitted to respond to any such proposals in the "spirit of fairness and transparency" and to help "further inform the Commission in their deliberations."¹ Duke agrees, and stands by its November 12, 2019 Response, and maintains that the Commission should reject the Section IV.F proposal submitted by JDA and SCSBA for the reasons stated therein.

Sincerely,

Heather Shirley Smith

Enclosure

cc: Parties of Record (via email)
John Dalton, Power Advisory, LLC (via email)
Natanel Lev, Power Advisory, LLC (via email)
Carson Robers, Power Advisory, LLC (via email)

¹ JDA/SCSBA Email dated October 23, 2019, filed in Dockets 2019-184-E, 2019-185-E, and 2019-186-E.

Smith, Heather Shirley

From: Jamey Goldin <jamey.goldin@nelsonmullins.com>
Sent: Wednesday, October 23, 2019 12:16 PM
To: Stark, David; Smith, Heather Shirley; Dulin, Rebecca Jean; clybarker@scconsumer.gov; bdoover@scconsumer.gov; Jamey Goldin; Weston Adams; richard@rlwhitt.law; abateman@ors.sc.gov; nedwards@ors.sc.gov; robsmith@mvalaw.com; aknowles@ors.sc.gov; Weston Adams; Bholman@selcsc.org; swellborn@robinsongray.com; fellerbe@robinsongray.com; sferguson@selcsc.org; seaton@spilmanlaw.com; cgrundmann@spilmanlaw.com; dwilliamson@spilmanlaw.com; Jeremy Hodges; Jeremy Hodges; selliot@elliottlaw.us; richard@rlwhitt.law; Breitschwerdt, Brett -mcguirewoods; lbowen@selcnc.org; mhutt@selcnc.org; len.anthony1@gmail.com; Trey Gowdy; jnelson@ors.sc.gov; clybarker@scconsumer.gov; bdoover@scconsumer.gov; chad.burgess@scana.com; matthew.gissendanner@scana.com; mwilloughby@willoughbyhoefer.com; belton.zeigler@wbd-us.com; jpittman@ors.sc.gov; mhutt@selcnc.org
Cc: Boyd, Jocelyn; Joseph Melchers; John Dalton; nlev@poweradvisoryllc.com; Carson Robers
Subject: Proposed dates for submission of proposals pursuant to 58-41-20(F)(1) by Intervenor and for comments in response from the companies in 2019-184-E, 2019-185-E, and 2019-186-E

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Mr. Stark,

Thank you again for your hard work and more importantly your patience with all parties throughout these dockets. As discussed at the conclusion of the DEC/DEP Hearings, JDA and SCSBA would propose the following schedule in the three dockets for Intervenor's submission of "commercially reasonable fixed price power purchase agreements with a duration longer than ten years" with "additional terms, conditions, and/or rate structures" for approval by the Commission pursuant to SC Code Ann. § 58—41-20(F)(1):

Intervenor's file proposals with the requisite statutory conditions for approval of terms longer than 10 years by October 31, 2019.

Companies have until November 6, 2019, to file comments in response to the proposals.

The statute does not limit or specify a timeframe for when such proposal must be proffered by the Intervenor and leads to the presumption that such proposals would be made in proposed orders. In the spirit of fairness and transparency we make this proposal to prevent surprise to any party, Commissioner, Power Advisory, LLC, or the Commission Staff. We also recognize that the statute does not provide for an opportunity for comments in response by the companies yet we feel this is fair to all parties and will help to further inform the Commission in their deliberations. JDA and SCSBA recognize that the record in the three dockets, other than for late filed exhibits in 2019-185-E and 2019-186-E, and the Report of the Independent Third Party, is essentially closed and that no new evidence or testimony will be offered in support of these proposals. We also believe this schedule comports with the concerns expressed by Commissioner Belser that Companies not be forced to file proposed orders and comments in response to Intervenor's proposals on the

same day. These dates attempt to give each side equal time for drafting and still allow for time to draft proposed orders in the dockets. We will also work, per Judge Ervin's request, with the companies to try and bring consensus proposals if possible. Finally, we have conferred with ORS about this schedule and they do not object.

Thank you for your consideration of our proposed schedule,

Jamey



JAMEY GOLDIN PARTNER

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